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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------|-------------|----------------------|---------------------|------------------|
| 10/775,880 | 02/10/2004 | Bart Vandewal | 1316N-001656 | 1427 |
| 27572 | 7590 | 09/30/2005 | EXAMINER | |
| HARNES, DICKEY & PIERCE, P.L.C. | | | SY, MARIANO ONG | |
| P.O. BOX 828 | | | ART UNIT | PAPER NUMBER |
| BLOOMFIELD HILLS, MI 48303 | | | 3683 | |

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------|----------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/775,880 | VANDEWAL, BART | |
| | Examiner | Art Unit | |
| | Mariano Sy | 3683 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 6-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,12 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed on July 25, 2005 has been received.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "47" in Figure 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Fahrnschon et al. (EP 332827A).

Re-claim 1 by Fahrnschon et al. disclosed, as shown in the figure, a damper comprising: a pressure tube forming a working chamber; a gas disposed within the chamber; a first piston dividing the chamber into an upper and lower working chambers; a source of pressurized gas 1 in selective communication with the working chamber; and an electronic control unit 5 in communication with said source of pressurized gas for continuously controlling pressure of said gas disposed within the working chamber.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fahrnschon et al. in view of Miller et al. (US 6,637,555).

Re-claim 2 Fahrnschon et al. failed to disclose the damper further comprising a valve for controlling flow of gas through the piston and a control unit in communication with the valve for controlling opening and closing of the valve.

Miller et al. teaches, as shown in fig. 1-5, a damper assembly 10 with a valve for controlling flow of gas through the piston and a control unit in communication with the valve for controlling opening and closing of the valve.

It would have been obvious to one of ordinary skill in the art to utilize the known valve for controlling flow of gas through the piston and a control unit in communication with the valve for controlling opening and closing of the valve on the damper of Fahrnschon et al., in view of the teaching of Miller et al., in order to effectively damp vibrations cause by irregular road surfaces.

7. Claim, 12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fahrnschon et al. in view of Grundei et al. (US 5,971,117) and in view of Miller et al.

Re-claims 12 and 20 Fahrnschon et al., as shown in the figure, a damper comprising: a pressure tube forming a working chamber; a gas disposed within the chamber; a first piston dividing the chamber into an upper and lower working chambers; a source of pressurized gas 1 in selective communication with the working chamber; and an electronic control unit 5 in communication with said source of pressurized gas for continuously controlling pressure of said gas disposed within the working chamber.

However Fahrnschon et al. failed to disclose the damper further comprising a second piston disposed within the upper working chamber; a first valve for controlling flow of gas through the first piston; a second valve for controlling flow of gas through the second piston; and a control unit in communication with the first and second valves for controlling opening and closing of the first and second valves.

Grundei et al. teaches, as shown in fig. 1, the use of two pistons with respective damping valves.

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Miller et al. teaches, as shown in fig. 1-5, a damper assembly 10 with a valve for controlling flow of gas through the piston and a control unit in communication with the valve for controlling opening and closing of the valve.

It would have been obvious to one of ordinary skill in the art to utilize the known two pistons with respective damping valves for controlling flow of gas through the piston and a control unit in communication with the valves for controlling opening and closing of the valves on the damper of Fahrnschon et al., in view of the teachings of Grundei et al. and Miller et al., as a mere duplications of parts and in order to effectively damp vibrations cause by irregular road surfaces.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Doherty et al. (US 4,886,466)

Hiwatashi et al. (US 4,934,731)

Kutscher et al. (US 6,266,590)

9. Applicant's arguments with respect to claims 1 and 20 have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 571-272-7126. The examiner can normally be reached on Mon.-Fri. from 8:30 A.M. to 2:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor, can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



M. Sy

September 20, 2005

THOMAS WILLIAM
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9-27-05